

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

BILLIE GILLENWATER,)
)
Plaintiff,)
)
v.) Case No. 4:05CV2011 RWS
)
BURLINGTON NORTHERN and)
SANTA FE RAILWAY CO., et al.,)
)
Defendants.)

MEMORANDUM AND ORDER

This case was removed from state court on October 28, 2005. In their Notice of Removal, Defendants claim that this court has subject matter jurisdiction over the case. Since the removal, Defendant has moved for a protective order preventing Plaintiff from conducting any testing that might alter or destroy any evidence at issue in this case, and Plaintiff has moved for a stay of discovery. Plaintiff alleges that this case was wrongfully removed, and Plaintiff states that he will file a motion for remand.

Plaintiff and Defendant have resolved the issues in Defendant's motion for protective order. As a result, I will grant the motion for protective order at this time.

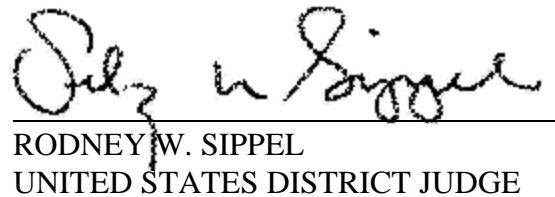
I had previously set this case for a Rule 16 conference, and subsequently to that, a hearing on Defendants' motion for protective order. I will vacate the scheduled hearing until the issue of whether to remand this case has been fully briefed and decided.

Accordingly,

IT IS HEREBY ORDERED that the hearing and Rule 16 Conference previously scheduled for November 28, 2005, at 10:30 a.m. is **VACATED**.

IT IS FURTHER ORDERED that Defendants' Motion for Protective Order [#10] is
GRANTED.

Dated this 15th day of November, 2005.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE